



STATE OF INDIANA
HOUSE OF REPRESENTATIVES
THIRD FLOOR STATE HOUSE
INDIANAPOLIS, INDIANA 46204

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PUBLIC HEALTH

From: Craig Fry
Sent: Wednesday, August 04, 2010 6:48 PM
To: 'hedman.susan@epa.gov'
Subject: FW: VIM Recycling

RECEIVED

AUG 12 2010

U.S. EPA REG.
OFFICE OF REGIONAL ADMINISTRATOR

Dear Dr. Hedman:

Congratulations on your appointment by President Obama to the position of EPA Region 5 Administrator. I wish you every success.

I am an Indiana State Representative that is struggling to protect the citizens of a neighborhood in Elkhart, Indiana. This neighborhood has experienced more than its share of injustice; local, state, and federal governments have failed them at every level. This neighborhood in Elkhart (Baugo Township) is a former EPA Superfund Site (EPA remediated the site by installing city water) and is currently designated by EPA as an Environmental Justice Neighborhood. The neighbors have formed a group called the Baugo North Neighborhood Group (BNNG). Their story is much like an onion - as one layer is peeled away, many other layers follow - and spans about ten years.

I sincerely need your assistance. These neighbors have experienced various health problems including rashes, upper respiratory issues, and nose bleeds since this company moved into Baugo Township. They have lost the use and enjoyment of their property. In June 2007 there was a fire and explosion at VIM that killed one worker and severely injured another, for which VIM was cited by various state agencies. Some neighbors say they will never forget the screams of those men. As illustrated in the July 13, 2010 e-mail below, there was another death from an industrial accident. All of these men were undocumented workers.

To date, no one from the EPA has extended the courtesy of a reply to my July 13, 2010 e-mail to Mr. Paul Ruesch (below). While the tone may seem harsh on its surface, it pales in comparison to the treatment these Baugo constituents have received from local, state, and the federal governments.

Some background -

The Baugo North Neighborhood's problems began when a recycling company called VIM Recycling, Inc. moved from a location in Goshen, Indiana, to its current location in Elkhart. Prior to VIM's move to Elkhart, an *Elkhart Truth Newspaper* article dated November 5, 1999, reported that VIM had... "a six year history of environmental problems, according to the Indiana Department of Environmental Management." Some of those citations included "construction without a permit, operating without a permit, fugitive dust crossing property lines, open burning, failing to house a wood grinding operation inside as per a previous agreed order." State and local governments solution? Move it to another neighborhood. Unfortunately, Baugo Township was the next area to be victimized.

VIM moved to the Baugo neighborhood around 2000, I am unsure of the exact date. It did not change its business practices and continues its history of violations and blatant disregard for the law. VIM ignored Agreed Orders, never bothered to obtain all of its necessary permits including a Solid Waste Permit, and was never made to follow the law.

The Indiana Department of Environmental Management didn't enforce any laws or even their own orders. I have about three bankers boxes of information, correspondence, and records concerning this company but I am trying to be concise. History repeated itself. VIM continues to operate without various permits. The State created a monster that they either cannot or will not control.

More deals - IDEM and EPA worked a deal with VIM and Soil Solutions. Under one of its Agreed Orders with IDEM, VIM was to dispose of materials (called C pile) by the Fall of 2008. Paul Ruesch, EPA, assisted VIM in sorting the C pile material and removing all of those materials over 4 inches. The smaller pieces are still on the property and jeopardizing the neighbors.

Soil Solutions was granted a Marketing and Distribution Permit by IDEM to manufacture a product that VIM was petitioning to market. I don't understand how they were able to strike a deal that gave Soil Solutions permission to go onto VIM property and perform this operation while saying VIM could not monetarily benefit. Meanwhile, VIM was still not in compliance and did not have all of its permits but continued to operate with Soil Solutions by its side.

Now Soil Solutions is trying to purchase VIM. So far, it has not proven to be a good neighbor, either. These people need their health and property back. Soil Solutions cannot be allowed to continue VIM's legacy.

Please also note that all of the correspondence and records I sent to the EPA under the Bush Administration disappeared. Until you were appointed the Bush Appointees continued to protect this entity. I want to see the change I voted for in the election of President Obama. I know that he cares about people and I hope he cares about the environment.

I would like the opportunity to discuss this case with you and to appeal to your experience as the lead counsel for citizen groups throughout the Midwest. I respectfully request a meeting with you – in person or by telephone – to discuss this case.

Thank you,

Rep. Craig R. Fry
House District 5
Indiana House of Representatives
Statehouse
200 West Washington
Indianapolis, IN 46204
317-232-9822

From: Craig Fry

Sent: Tuesday, July 13, 2010 9:06 PM

To: 'Ruesch.Paul@epamail.epa.gov'

Cc: Walts.Alan@epamail.epa.gov; Newton.Cheryl@epamail.epa.gov; Hassan.Jacob@epamail.epa.gov; japalin@idem.in.gov; jgreeson@dhs.in.gov; Steketee.John@epamail.epa.gov; kengland@idem.in.gov; msnyder@dhs.in.gov; Beckmann.Ronna@epamail.epa.gov; rroudebu@idem.in.gov; Downey.Shannon@epamail.epa.gov; valerie.tachtiris@atg.in.gov; Sypniewski.Bruce@epamail.epa.gov; Marilyn Cage; kim.ferraro@leafindiana.org; 'gfzoeller@atg.in.gov'

Subject: RE: VIM Recycling

Paul,

Your overall history with VIM only shows a commitment to VIM Recycling, Inc. There has been a total disregard for the health and safety of Elkhart's Baugo North Neighborhood. You have become a facilitator of illegal practices, not a regulator for environmental laws and regulations.

When we first spoke, you were outraged at the conditions at VIM. You warned VIM that they were not following safe workplace practices the day **before** the second worker was killed on the site. You pledged to me that next day that you would have VIM closed. What happened?

You said you worked side by side with VIM employees to ensure that they were following the Order – you even were instrumental in assuring their reporting requirements. You spoke of your ability to communicate with VIM workers when Ken Will (owner of VIM) could not. Most of the workers only spoke Spanish, a language in which you are fluent and Ken Will is not. Knowing that both workers that were killed and the one that was severely burned were undocumented workers, did you or the EPA ever ask the Department of Justice to check on the status of *these* workers at VIM? If not, why not?

Please answer these questions for me:

1. When will **all** of the C pile be removed? There is an Order that covers that.
2. How can VIM be allowed to operate without the appropriate permits, including a solid waste permit?
3. The Attorney General of the State of Indiana filed two suits against VIM. One of them includes nonpayment of the Air permit (not to mention the other lawsuits by the Office of Homeland Security, Department of the State Fire Marshall and IDEM).
4. Why are you assisting a company that has consistently failed to follow local, state, and federal laws?
5. When are going to do something that actually protects the people of the Baugo North Neighborhood?

In the very beginning we asked that you not assist VIM. If you wanted to oversee the project, you should have done just that – oversee. You were hands on to make sure that VIM did not fail. We pleaded that if you just oversaw their work that VIM would not complete the task and their failure would have allowed closure of that site. Your actions allowed VIM to stay in business at the expense of the neighbors. **EPA's presence allowed VIM and the elected officials who allowed 10 years of violations at VIM to legitimize its existence. That is why EPA was asked back by IDEM and Elkhart County – to further legitimize VIM.**

These e-mails you shotgun to everyone does nothing but attempt to cover your own behind. Meanwhile, the Baugo North Neighborhood is still plagued with health issues – including but not limited to nose bleeds, upper respiratory illnesses, and rashes - mirroring the Katrina trailer inhabitants (but documented in the Elkhart media prior to Katrina) and has lost the use and enjoyment of their property. (For those recent to the situation, VIM was a repository of refuse from the manufactured housing industry, some of which built the Katrina trailers.)

We plead one more time - Please do the right thing; the legal thing: close VIM!

Rep. Craig R. Fry
Indiana State Representative
House District 5

From: Ruesch.Paul@epamail.epa.gov [mailto:Ruesch.Paul@epamail.epa.gov]
Sent: Tuesday, July 13, 2010 7:37 PM
To: kim.ferraro@leafindiana.org
Cc: Walts.Alan@epamail.epa.gov; Newton.Cheryl@epamail.epa.gov; Hassan.Jacob@epamail.epa.gov; japalln@idem.in.gov; jgreeson@dhs.in.gov; Steketee.John@epamail.epa.gov; kengland@idem.in.gov; Marilyn Cage; msnyder@dhs.in.gov; Beckmann.Ronna@epamail.epa.gov; rroudebu@idem.in.gov; Downey.Shannon@epamail.epa.gov; valerie.tachtirls@atg.in.gov; Sypniewski.Bruce@epamail.epa.gov
Subject: Re: VIM Recycling

Kim -

Thank you for sharing your concerns. Although we did not meet your expectations in this instance, I hope our overall history with VIM shows EPA's commitment to working with the community to ensure on-going and effective communication. Though VIM completed work on EPA's Administrative Consent Order late last year, IDEM and Elkhart

County requested our continued assistance to ensure that the perimeter berm surrounding the north end of the site is a safe and effective buffer between the site and the community. During this project, EPA field staff are making regular visits to the site through project completion, which is expected shortly. We informed the community of how to file odor complaints and are committed to respond as quickly as possible to any complaints that arise.

Paul Ruesch
Municipal & Industrial Materials Section
U.S. EPA Region 5
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VIM owes state \$85,000 in fines but says new Elkhart plant will help

By KERRY BENGMAN

Truth Staff
ELZGAR - a recycling company planning to move a major part of its operations from Coches to Elizabethtown, Pa. Coches is facing a state fine of \$5,000 for clean air violations - tied to wood that escapes from a wood grinding operation.

In addition, VDM Recycling, which is clearing land for a new facility off

POLLUTION

From Page A1

tears, but didn't know specifics.

According to IDEM documents, the company, located on U.S. 33 near C.R. 38, has been cited during the last six

Nov 15, 1999

- Construction without a permit
- Operating without a permit
- Excessive dust crossing property

- Open burning
- Feeding to horses & wood

The company obtained permits in 1964 and has resolved a number of its problems. But others, such as dust from a wood grinding operation, remained problems, according to IDEM.

The \$35,000 fine is in for 240 days of clean air violations at the Cochen facility, according to Grunden. Duff says the new grinding operation means they're producing twice as much as before, but that the new machines make less dust, and the balance control and air-cleaning systems are working.

U.S. \$3 near the Milk Park business park, has a 20-year history of environmental problems, according to the Indiana Department of Environmental

But Ken Will, president of VIM Recycling, said the company is now operating in compliance with clean air

State officials say they've been patient with the company because it is a major contributor to recycling efforts in Milbark County.

"We probably could have lost them down, but no one would win in that situation."

situation," said J. Brian Eaton, an IDHM enforcement officer. "We are supposed to promote recycling."

Will defend his company's record as the growing pains of a start-up business.

"We were a prototype down here," Williams said. "No one understands what recycling is about. Everyone thinks it's a snap. It's hard work from individuals who want to take someone's trash and turn it into a commodity."

The \$86,000 fine will be part of an agreed order between the company and IDEM, which is now being finalized, according to Russ Grunden, an IDEM spokesman.

The fine will be the largest by far for such emissions from an Elkhart family business in the last five years. The turn-over is a \$1,500 fine needed to get to a Cushman construction business in November 1988. There were only two other fines for dust emissions issued by IDEM locally during that period. One was a \$1,000 fine against TMA Recycling in 1986.

Neighbors of the planned Ellhart facility have expressed concern about the company's plans to build a new plant in the area. The company's environmental pro-

THINK BEFORE YOU BUY

Recycling problems: A front loader pushes out part of a pile of ground up wood which will be processed for reuse at VTM Recycling's plant in Goshen. The Indiana Department of Environmental Management is preparing to fine the company \$85,000 for wood dust that blows onto other properties.

[illegible]

This was a prototype center in Cochen and we now are taking all that experience and putting it into computing.

consulting with VDM Recycling
on air quality.

Eaton said IDEM also considers the move to Elkhart as the best long-term solution to the company's problems.

VITA Recycling officials have told county officials they hope to be operating in Wilhoist by spring. In addition to wood, the company recycles vinyl, cardboard and drywall. Recycling of those three is expected to continue in Goshen.

The county solid waste management board considers VIM Recycling an important part of its effort to meet state-set goals for recycling.

"My job is to keep stuff out of landfills," said Tim Nissen, county solid waste management administrator. "Certainly this company will be a very vital entity in terms of doing that."

The solid waste management board has extended two low-interest loans to the company, both of which have been repaid, according to Neesa.

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